

REPORT
of the
GOVERNOR'S COMMISSION
To Study The
PROBATION AND PAROLE SYSTEMS
of
PENNSYLVANIA

Submitted to
HIS EXCELLENCY GEORGE H. EARLE

Governor of the Commonwealth

December, 1938

Digitized by the Internet Archive
in 2017 with funding from

This project is made possible by a grant from the Institute of Museum and Library Services as administered by the Pennsylvania Department of Education through the Office of Commonwealth Libraries

TO THE HONORABLE GEORGE H. EARLE, GOVERNOR OF THE
COMMONWEALTH OF PENNSYLVANIA:

YOUR EXCELLENCY:

The Commission appointed to investigate the application of criminal penalties in the Commonwealth and the operation of its probation and parole systems, and to make recommendations for the improvement and strengthening thereof, beg leave to submit to your Excellency the following report of its studies of the subject:

In performing the duties entrusted to it, the Commission held many meetings in Philadelphia, Harrisburg and Pittsburgh, and received information and advice from a large number of persons intimately connected with the administration of parole, in all parts of the country, including representatives of the Federal Government and the Army and Navy. In addition, it availed itself of the counsel and advice of a number of gentlemen who have made a special study of the subject, and who are recognized as authorities thereon. The Commission also corresponded with the parole authorities of every state in the Union and of Canada and England; and the information obtained from these sources was invaluable in its study of the subject and in evolving the system which it recommends to your Excellency.

The recent indications of a growing public dissatisfaction with the apparent inequality in the imposition of sentences for criminal offenses, and the frequent charges which have appeared in the public press and elsewhere of a "failure" or "breakdown" in the administration of parole and probation in the Commonwealth were the primary considerations which moved your Excellency to request the Commission to ascertain to what extent such criticisms are justified, and to determine whether the remedy therefor is, on the one hand, to establish a single central sentencing court for all criminal cases, and to abandon the use of probation and parole as instruments of corrective justice or, on the other hand, to retain the existing system, and by modifying and strengthening it to eliminate its defects and promote its more efficient functioning.

Inequality in Sentences.

With respect to the first of these questions, namely, the inequality in sentences imposed, there can be no doubt that there has been glaring and unwarranted disparity between sentences, and that a remedy for this condition is much to be desired. To a considerable extent the condition is more apparent than real, but so far as it is real it is a serious defect in our administration of justice, and in a large measure can be remedied. The reason for this disparity lies principally in the fact that the sentencing of convicted offenders is done in scores of different courts by upwards one hundred fifty judges of the Commonwealth, each of whom reflects in his sentences not only the differing local concepts of the gravity of particular offences, but also his own individual judgment upon the same questions. The degree of social condemnation of a particular class of crime in rural communities may differ radically from that in an urban population, and the judges in each community will necessarily and properly reflect this difference in their sentences. Moreover, even in the same locality, one judge will consider crimes against the person as more grave and deserving of a proportionately heavier punishment than crimes against property, while another will entertain the opposite view. Indeed, such is the inevitable variation in human personalities that one will consider an offense as of a kind meriting the severest punishment, while another will consider it as comparatively trivial, and, therefore, to be treated with great leniency. In sentencing prisoners also the personality of the particular convict, his background, his social and educational history and environment, the temptations and motives which actuated his crime, the extent and character of the suffering that will be inflicted upon his family and those who may be directly affected by his incarceration, are all considerations creating variations in sentences which superficially may appear unequal, but which basically are altogether justified.

These are but a few of the factors which have produced the results about which complaint has been made. Some of them are inherent in each case and necessarily form the basis of a wise and just discrimination in the application of punishment, and any absolute uniformity in sentences based upon a blind "rule of thumb" is as much to be deplored, as is an inequality in the employment of the sentencing power

arising merely from variations in the judgment and personalities of different judges. Through the injustice produced by either the law bears unequally upon the whole body of offenders.

Remedies for Sentence Inequalities.

The inequality which arises from the varying personalities of the many judges who now impose sentences, the Commission believes, can be remedied to a large extent. Theoretically, a single central sentencing court in which the number of judges is comparatively small would go far toward eliminating this evil, for the smaller the number of individuals by whom the sentencing power is exercised, the less will be the opportunity for the occurrence of such variations in sentences: concentration of the power in a single court would tend to produce the desired uniformity. The practical difficulties of operation of such a court, however, are insurmountable. The concentration in a single tribunal with a very limited number of judges of the work of reviewing before sentence the facts of all the cases of convicted criminals that arise in the Commonwealth during any given period would produce a congestion of business which would defeat the very purpose of such concentration. No single court could possibly dispose of so vast a quantity of business with sufficient rapidity to accord the convicted felon awaiting sentence in prison that prompt hearing and disposition of his case to which he is entitled. If to this we add the further delay inevitable to an investigation of the personality of the man and his physical and psychiatric history, it becomes manifest that such a system would be practically unworkable.

Indeed, one of the defects of our present system is that judges, especially those presiding in the overcrowded courts of our larger communities, do not have time for an adequate investigation before sentence of the cases in their own courts. The so-called pre-sentence clinic, which has been employed in some of the communities of the Commonwealth with asserted satisfaction (particularly in Allegheny County where it has been used for some time,) is only a partial solution of this difficulty. While a pre-sentence investigation is made in some cases, they are necessarily few in number, and thus the pre-sentence clinic fails as a practical

remedy for the evil complained against. A clinic which could effectively handle all cases would be prohibitive in cost, besides being unworkable from the standpoint of the time element involved. The efficient sentence clinic is the post—rather than the pre-sentence—clinic. A study, after sentence is imposed, of the man and his crime, with ample time for investigation of all the factors which enter into the determination of the period of imprisonment he should justly be required to serve, will more nearly approximate an ideal administration of the criminal law in this respect. In this way the adventitious and undesirable variations in sentences, which are due to the multiplicity of courts and judges imposing them, would be obviated, by placing in a comparatively small body equipped with sufficient machinery to gather information the power intelligently and efficiently to determine the merited term of imprisonment in each case. Your Commission therefore recommends, and has incorporated in the suggested legislation which it herewith submits, the adoption of a system by which, regardless of the sentence imposed by a judge who has acted upon incomplete knowledge of the controlling factors, a thorough investigation of each case will be made following the sentence, after which the prisoner can be released on parole, when he has served such time as the investigation discloses that the justice of his case requires. Thus the disparities resulting from the eccentricities of individual judges in imposing sentence will be eliminated. The cruel and undeserved sentence to a virtual life imprisonment will be disclosed in time to be remedied, and the unduly lenient sentence, which belittles the offense and encourages law-breaking, can be lengthened and made adequate. This will be best accomplished by requiring sentences in all cases of sufficient gravity to warrant imprisonment for a year or more to be for the maximum period of incarceration allowed by law, and by giving the power to parole at any time after sentence to a parole Board fully equipped to inform itself on all the factors that enter into the determination of the just and proper sentence to be served.

The Origin and Nature of Parole.

Before reporting upon the present administration of the parole and probation laws of the Commonwealth, it may be well to consider the fundamental nature and function of

parole in the philosophy of penology, and briefly to review its rise and development. The original method of dealing with unsocial acts by the citizen was confined to the infliction of criminal penalties solely as a punishment or retribution for the criminal act. The theory upon which this was based was that there was a compact between the citizen and organized society by which the citizen surrendered his individual right to seek vengeance for wrongs done him by others, and in return the state undertook to give him satisfaction for his wrongs by the infliction of punitive justice. The result of this attitude was that punishment for crime was savage and purely retaliatory. Many, if not most, crimes were punished by death or mutilation of the person. In this way the lust of the individual for vengeance was satisfied. To a lesser extent the severity of criminal penalties was also considered as a valuable deterrent of crime. The emphasis was placed originally, however, on retribution rather than on deterrence. As civilization advanced and the principles of penology were more thoroughly understood, it was gradually realized that the infliction of severe punishment did little to suppress crime, although it may have satisfied the wronged individual's desire for vengeance. The emphasis on punishment also shifted to a recognition of the predominant interest of the State in the suppression of crime as the principal aim of punishment, and this, together with considerations of humanity, gradually brought about an amelioration of the severity of punishment through the abolition of death penalties for most offenses and a shortening of sentences to imprisonment.

Along with this advance in penology the idea of criminal punishment as mere retribution or vengeance finally disappeared entirely, and today a more enlightened civilization recognizes only two elements as the proper object of criminal punishment; namely, first, the prevention of crime by others, or its exemplary feature, and second, the reformation and rehabilitation of the convicted criminal as a useful member of society. It was a long time, however, before any method other than imprisonment was employed for the rehabilitation of the individual. The essential defect in the use of this method alone is that comparatively long periods of imprisonment tend strongly to defeat the rehabilitation of the individual, which is the principal object of punishment. Incarceration in prison rapidly destroys the

ability of the individual to live an efficient social life after his release. It hardens the character, and tends to make him an enemy of society. By subjecting him to idleness and a narrowly regimented life, it invariably alters his personality for the worse, and unfits him for those adjustments to social life outside of prison, which he must make after his release in order to become a valuable economic and social unit in the state. These are the results of all imprisonments, and it may here be observed that whenever imprisonment alone is employed as the method of criminal punishment it all too frequently looses upon the community vicious and weak characters, who cannot adjust themselves to life as it must be lived beyond prison walls, and who become confirmed lawbreakers and burdens to society.

And herein lies another field in which there is need for a radical reform in our method of dealing with the convicted criminal, namely, his care and treatment during his period of incarceration. It is outside the scope of the investigation submitted to the Commission, and is too large a subject to be adequately examined in the time and with the means at the Commission's disposal. Yet it touches intimately upon parole, and requires a passing reference at this point. Apart from the mere safe-keeping and preservation of the physical health of the prisoner, the institutional treatment of him in many of our prisons is unenlightened, and, in its major aspects, tends, by undermining rather than improving his character, to unfit him for his future freedom. Many phases of prison life contribute to this result. The corrupting effect of inadequate classification and segregation of the prisoner, which results in the inter-mingling of the old and hardened criminal with the young and reclaimable offender; the depressing monotony of prison life and routine; the inadequacy of educational facilities; the shortage or, in many prisons, the total absence of remunerative work—these are only a few of the destructive influences of prison life which impede parole's efforts at rehabilitation.

Much good work has been done by the Commonwealth and many of its prison officials, especially in recent years, to eliminate these evils, and definite progress in that direction has been made in our more recently constructed penal institutions. But in many of our county prisons, which house a large proportion of our prison population, these vicious influences are rife. They call for prompt correction,

not only because of their inherent harmfulness, but also to aid the work of the parole officer. This can best be brought about, it is believed, by abolishing our system of county jails and uniting all our prisons in a state-wide system of modern penal administration. Whether or not this is done, however, our penal institution should work in close cooperation with the parole administration, for in this way only can the maximum results be achieved. Prison training should aim to prepare the convict for parole, by preserving and multiplying the good impulses and qualities he brings to the prison with him, and by endeavoring constructively to rebuild his character. Parole should begin when the offender enters the prison, not when he leaves it.

The truth is that imprisonment for crime as a weapon of penology is in a large measure unscientific, barbarous and cruel, and destructive rather than constructive in its tendency. As this fact became more thoroughly understood and realized a different approach to a solution of the crime problem was evolved, principally during the last century, and instead of reformation by punishment, penology has turned to the principle of moral and psychological instruction while in prison, and supervision, encouragement and aid after release. This change in attitude towards the prisoner is revolutionary in character, and has placed in the hands of society a weapon for the combat of crime, constructive in character and better designed to accomplish the ultimate and true purpose of the criminal law.

The general recognition that society needed new and more discriminating methods for coping with crime brought about the development of modern penology, and added parole to its weapons for the suppression of lawbreaking. Parole, as your Commission conceives it, consists of the release of a prisoner after he has served a portion of the maximum period for which he was incarcerated, and at that stage of his imprisonment when punishment as such has reached its maximum effectiveness. Further incarceration would be of less service to him and the state as a reformative measure, than a like period passed in liberty under proper and competent parole supervision. As was well said in the Wickersham report on probation and parole, at page 298: "Two assumptions held by large parts of the public are wrong, and we consider it desirable to correct them.

“One is that parole is based on consideration for the offender. It is not. It is a part of the course of treatment designed by the state for people who break the laws of the state. It is therapeutic in purpose, and its ultimate object is the protection of society. Were its foundation laid simply on humanitarian considerations, it would have less justification than it has.”

Should Parole Be Abandoned?

This being the true nature of parole, it would be a backward step in the handling of one of the greatest of our social problems to abandon it as a weapon for the combat of crime. An enlightened civilization will foster and develop it. It is not to be supposed, however, that parole is a cure-all for our social evils in this regard. Being, as the Wickersham report has characterized it, therapeutic in nature, it cannot and never can guarantee the reformation of all. The parole violator will always exist. The real character of the crafty and irreclaimable criminal cannot always be detected. A parole administration will never be universally successful in the formation of character. If the powerful and beneficent influences of religion, family environment and good example have so often failed to make men law abiding, it would be folly to expect complete success from the best of parole systems.

The value and effectiveness of parole as a weapon in the suppression of crime is measured not so much by the number of cases in which parole has failed, as by the number in which it has been successful. A just evaluation of our existing parole system can be made only by a consideration of its successes as well as its failures. Your Commission believes, that, in the last analysis, statistics will be found to be of little real worth in determining the value of parole as a method of reformation. At least those we have today involve speculative and uncertain factors which challenge the reliability of their conclusions. There can be no assurance that statistical data of the number of successes and failures of a parole administration give a true picture of its operation. Many parole violators successfully evade detection, and even with respect to those who do not repeat crime, it does not necessarily follow that parole was the efficient instrument in bringing about reformation. Indeed we cannot even compare the results of parole with those of imprisonment alone before parole was first employed, for we

are without statistical information upon the latter subject. It can be asserted with certainty, however, that the value of parole as a weapon in the fight against crime is manifestly great, that it is inherently sound, and that its defects lie in faulty administration of the process, rather than in the fundamental nature of the process itself. Indeed because of its basic value as a process of penological therapy, it should be applied not only to those who appear most likely to be benefitted by it, but to all prisoners on their release from prison, whether or not they give promise of reform.

The efforts of the ex-convict to reestablish himself in life are obstructed at every turn. He leaves the prison doors profoundly damaged in personality and earning ability. Thus handicapped from the start, he encounters in his battle for rehabilitation potent forces of disillusionment and discouragement peculiar to his kind, not the least of which is the heartless and cruel barrier of the social taboo against the criminal. However worthy his intentions may be, he becomes the object of a pharisaical hatred and suspicion—a creature shunned and despised by others. The hand of society is ever raised against him; few are willing to employ him; none can altogether conceal their distrust of him. He cannot bury his past if he would, and thus the stigma of his transgression hangs like a millstone around his neck dragging him back to the ranks of the underworld. In this unhappy situation, the released prisoner, whether he be a single or repeated offender, needs more than anything else the watchful eye, the spiritual comfort and stimulus and the practical advice and encouragement of a wise, sympathetic and understanding mentor. This is the true function of the parole officer, and when well chosen, his value as an instrument of human reclamation is incalculable. Parole's influence upon character is steadying and encouraging, and the threat of re-imprisonment for its violation is a forceful incentive to good behavior for all. It is weakened only by lax methods of enforcement and the corrupting effect of malign interference with its operation.

The Commission considers that it is essential that all released prisoners be subjected in the critical period of their adjustment to a life of freedom to the constructive influences of the parole process. The longer one is imprisoned, the greater is his need for such help. The Commission is strongly of opinion, therefore, that the prisoner who has served the entire maximum period of his sentence under the present sentencing law should not be released without super-

vision, but should be required to submit to a period of parole. It has, therefore, included in the legislation which it recommends, a provision continuing the period of parole beyond the maximum sentence imposed by the court whenever such maximum is less than the maximum sentence allowed by law for the offense, and the prisoner has been actually incarcerated for more than one-half of the sentence imposed. Of course, if the sentencing act which is also recommended is adopted, this provision will become obsolete for all cases except those in which sentence shall have been imposed under existing laws.

The Commission deprecates the suggestion that is frequently advanced that the apparently confirmed criminal should be incarcerated for life for the protection of society. There may be particular instances in which this becomes necessary, but the right of the individual to an opportunity to work out his own destiny and well-being at liberty, and in accordance with law, outweighs any supposed right of society to deprive him of this opportunity upon the mere fear or assumption that he will again transgress the law.

Discussion of Existing System.

Your Commission has made careful and extensive inquiry into the operation of parole in Pennsylvania, and has reached the conclusion that, considering the purpose which parole is designed to accomplish, and the handicaps under which the system has operated in this Commonwealth, parole has been relatively successful, although many defects exist which should be corrected, if parole is to achieve its maximum efficiency. The Commission desires to acknowledge the generous manner in which the various parole agencies of this and other Commonwealths, and the many well-informed students of the subject who have appeared before it have responded to its request for advice and for statistical data upon the practical operation of parole laws. Statistical reports received from the various parole agencies of this Commonwealth indicate failures in less than 15% of the cases of persons paroled, and compare favorably with other communities. This, of course, includes only cases in which there has been a subsequent conviction for crime, and does not embrace cases of minor violations of the terms and conditions of parole. Many of these failures of parole are doubtless due to the fact that the paroling authorities were handicapped in securing accurate and reliable infor-

mation respecting the individual. But the principal cause of failure is to be found in the overloading of supervising officers with a number of parolees that could not be handled efficiently. On the other hand, it appears to be very significant that parole seems to have been successful in at least 85% of the cases.

The Commission has been more impressed by the success of parole in this Commonwealth than by its failures. The principal defects in the machinery of parole administration appear to be: First, the multiplicity of independent and essentially non-cooperating parole agencies; second, the parole agencies have been hampered by lack of funds and personnel; third, the principal paroling agencies of the Commonwealth, namely, the Board of Pardons and the Courts have been inadequately supplied with the information essential to enable them to act with confidence and certainty in the exercise of the power; and fourth, these agencies are already burdened with other public duties and cannot give the necessary time for the satisfactory solution of parole problems without neglecting their other important public functions.

Recommendations.

Having determined that parole should not be abandoned as an instrument of criminal justice in this Commonwealth, and considered the defects which exist in our present system, the Commission has directed its efforts primarily to devising a system which it believes will meet the principal objections to the present one. Enough has been said respecting existing defects to demonstrate the urgent necessity for a complete reorganization of our parole administration. The Commission is unanimously of opinion that parole as a method of punitive justice should not be abandoned, but that its operations should be strengthened and enlarged, and to that end recommends the establishment of a single state-wide and coordinated parole administration by:

1. The creation of a competent, impartial, and continuing Board or Body vested with the power of parole in all criminal cases which shall devote its entire time to the work of parole.

2. Furnishing to this body sufficient funds, personnel, and organization for the adequate and efficient performance of its duties.

3. The enactment of a sentencing law which permits the Board to release the prisoner at a time when he is most likely to be able to adjust himself to society.

4. The adoption of regulations which will insure the proper determination of the times when prisoners should be paroled, the terms and conditions upon which they should be paroled, and the effective supervision of them while on parole by competent parole officers.

5. The strengthening of the system by the enactment of an adequate Civil Service Law for its personnel.

Discussion of Suggested Legislation.

The Commission has prepared and has the honor to submit herewith a draft of a suggested Act to carry into effect its recommendations based upon these essential characteristics of an efficient parole system. This Act establishes a Board of state-wide jurisdiction for the administration of parole in all cases in which the sentence is for more than one year. The reason for this limitation, it may be noted, is because it is thought that those criminal acts which are of such comparatively minor gravity as to merit less than a year's imprisonment are so great in number that, in the beginning at least, it would be better to confine the work of the Board to the graver offenders who are of sufficient number to occupy its entire attention. As the Board develops and expands, and its functioning becomes systematized, it may be that the Legislature will see fit to extend its jurisdiction to all cases. In the case of sentences of less than a year, however, parole is not entirely eliminated, for provision is made for parole by the courts, but without active supervision by the Board except in special cases where active supervision is directed.

The Board is also given the power of supervision of all cases of probation for a year or more. In their practical operation, parole and probation supervision are identical, and, hence, there is no need for a probation department separate from the parole department recommended.

Of course, the establishment of such a central parole system for the entire Commonwealth will render the local departments in the various counties unnecessary, and they should be discontinued. This should result in relieving the local taxpayer of the burden of maintaining an independent system.

The Board, as recommended by the Commission, will consist of five members to be appointed by the Superior Court. The reasons for the selection of that Court as the appointing power are two-fold: First, because parole is basically quasi-judicial in character; and second, because in this way the baneful consequences of political interference with the administration of parole can be most effectively averted. With respect to the first of these reasons, parole is a part of the sentence imposed for crime, and its supervision should logically fall to a body responsible to the courts. This conception of parole as a part of the judicial function is not novel. While some of the penal institutions of the Commonwealth have their own parole systems, under which the prison authorities in effect grant and administer paroles, and while paroles are also granted by the Board of Pardons, all of the existing local parole agencies of the Commonwealth are appointed by and their work performed under the supervision of the various courts of the Commonwealth.

To those who might object that parole properly belongs to the pardoning power of the Commonwealth, it will be sufficient to reply that the members of the Board of Pardons are unable to devote the kind and quantity of attention to this public activity which it so urgently needs, and that there is a radical difference between the administration of parole as a reformative and penological measure on the one hand, and the granting of pardons on the other. The one is the exercise of the sovereign's prerogative of mercy: the other is the application of the remedial processes of the criminal law. Such a board would not therefore encroach upon the constitutional powers of the Board of Pardons.

In addition, the Superior Court is the one appellate tribunal of state-wide jurisdiction for all criminal cases except capital felonies, and hence the appointment of the Board and the supervision of the system should naturally and logically be assigned to it. This is especially so in view of the constitutional prohibition against the committing of any function of this character to the justices of the Supreme Court. The second reason for the selection of a Court as the appointing power is that your Commission believes this to be the most effective means of securing the exclusion of politics from the work of parole administration. The executive and legislative branches of the government are, essentially and properly, political in character,

and it is no reflection on them, or on those who have occupied executive or legislative positions, to observe that the Board would be better protected from political influences in the performance of its duties by placing the selection of its members in the hands of the courts rather than by confiding their selection to those branches of the government which are frankly political in character. The point is that to give such power to either the legislative or executive is, justly or unjustly, to invite suspicion of the injection of political considerations into the choice of such a board, whereas this is not as likely to follow from lodging the appointing power in that branch of the government which is expected to be, and may rightly be considered, most remote from such influences.

Political Interference Prohibited.

It is essential that the parole system be shielded as completely as possible from the baneful effects of political and other subversive influences. Every witness who appeared before the Commission, without a single exception, emphasized this as the most important safeguard for the efficient administration of parole. The Commission fully concurs in this judgment, and therefore has also incorporated in the Act herewith submitted a stringent prohibition of political activity not only by the members of the Board itself but also by any of its agents or employees.

The Commission has carefully considered whether it would be desirable to impose special qualifications for membership on the Board, but has concluded that to do so would frequently tend to prevent the Commonwealth from availing itself of the services of those best qualified and competent to perform the work. If the body that is given the appointive power is worthy to be entrusted with it, it may be relied upon to act in the Commonwealth's best interests in selecting the personnel of the Board.

Civil Service Provided.

With respect to the organization of the system and qualifications of the agents and employees of the Board, the Commission has not undertaken to suggest elaborate rules therefor. More effective results, it is believed, can be achieved by permitting the Board to develop its personnel and organization through experience, under the guidance of

the Superior Court, which is required to approve its rules and regulations. The Commission believes it necessary, however, in order to safeguard the employees of the Board and promote their efficiency, to provide for their selection by a system of Civil Service examinations, with the usual restrictions upon removal for other reasons than cause, and to make political activity on their part a criminal offense, punishable by forfeiture of office and imprisonment.

And finally, the efficiency of the Board itself is fostered by assuring to its members adequate compensation, by requiring them to devote their time exclusively to the work of the Board and by providing a measure of permanence in office through the prohibition of their removal except for just cause, and after a full hearing. There is no reason for requiring the Board itself to be composed of specialists in any particular line of knowledge that may bear upon paroles, for advice in such matters will always be available to it through the employment of psychiatrists, physicians, and other specialists.

Any objection to removing the parole power from the courts on the ground that the judges are specially qualified to perform such a function is answered, it is believed, by the observations first, that the judges labor under the disadvantage of divided work, as well as the fact that they have no opportunity to observe the prisoners between the time of sentence and the time of parole, and, second, that so far as regards the calibre of the individual, the appointing power is not excluded from making its selection, if it so desires, from among the class and calibre of persons who are qualified to occupy the Bench.

Cost of Parole.

In considering the volume of business to be handled by a centralized parole system and the cost of such an organization, the Commission regrets that it is not in a position to give definite and accurate figures upon these subjects. It has obtained certain data, however, which it believes to be sufficiently complete to enable it to form a fair estimate thereof. The responses that the Commission received from the existing parole agencies do not admit of accurate conclusions as to the total number of parolees handled by them all in a given year. From the more heavily populated sections of the state, including the parolees from the Eastern

Penitentiary, Philadelphia, Allegheny, Montgomery, Washington and Westmoreland Counties, we find the average load of parolees and probationers to be approximately twenty thousand. This would require a staff of field officers or supervisors of at least 200, allowing a case-load of a 100 to a man. If to this is added the personnel of the Board itself, the General Director of Probation and Parole, district supervisors and the necessary subordinate clerks and employees, the Commission estimates that a minimum total force of 282 persons will be necessary to adequately and efficiently staff the work of the Board.

With respect to the cost of such an organization, it may be valuable to consider the total cost of the administration of parole and probation as the system is presently organized. This amounts to approximately \$500,000 a year. The present system, however, is very deficient in the number of parole officers and supervisors, for, in some of the larger counties and in the state agencies, the case-load of parole officers today is as high as 400 to 500 cases per officer. It is this shocking overloading of parole officers which is principally responsible for the ~~the~~ efficiency of the present system. Greater efficiency and economy will be achieved by the centralization of the work, but the total cost of an adequate system is certain to exceed the present expenditures, and the Commission believe it to be a conservative estimate that the annual cost to the Commonwealth of the system it is recommending will probably be, in the beginning at least, in the neighborhood of \$750,000 to \$800,000. Doubtless this is a substantial increase over the present cost of probation and parole to our people, but the added expenditure will be fully justified by the improvement in efficiency that will result from the employment of the system here proposed. Indeed as compared with the cost of this public service in other states, the suggested expenditure is extremely modest. For example, Commissioner Ellis of New Jersey, informed the Commission when he appeared before it that in Essex County of that State, which has a population of 834,000, the annual expenditure for probation alone is almost \$400,000, and that the work there is handled by a staff of almost one hundred men and women. New Jersey is generally conceded to have one of the most efficient probation and parole systems in the Nation, and this may be attributed largely to the willingness of its citizens to spend generously

for such satisfactory results. If the people of Pennsylvania are also willing to provide adequately for this service through their General Assembly, the Commission is confident they will be proportionately repaid by the more successful reduction of crime and rehabilitation of a larger part of its criminal population. A new system that is crippled from the beginning by a parsimonious expenditure of public funds had better not be begun.

Suggested Sentencing Act.

One other matter requires comment. The Act which is herewith submitted is so drawn that it will be operable under the existing system of sentencing. The Commission believes, however, that to achieve the best results, the indeterminate sentence should be abolished, and all sentences for periods of a year or more should be for the maximum allowed by law for the offense. If this is done, the power given to the parole board to release at the proper time, taking into consideration the nature and character of the offense committed and the personality of the offender, will result in harmonizing and equalizing sentences, will do away with the gross and shocking inequality that so often occurs under the present system, and will, in the end, promote a more exact and just application of criminal penalties. For this reason the Commission also submits herewith a draft of a suggested act relating to sentences, in which this change is provided for. It should not be enacted unless the parole act is also enacted, for it is unsuited to the present parole system, and would result in making all sentences for the same offense identical in length without regard to the measure of offending. The Commission desires to emphasize the thought, however, that the parole act itself can be adopted, and the benefits of a more efficient system secured to the Commonwealth, without the necessity of making a change in the sentencing law, if the Legislature, in its good judgment, does not deem it desirable to pass the sentencing act.

In conclusion the members of the Commission desire to express to your Excellency their deep appreciation of the opportunity which your Excellency has afforded them to make a study of parole as a remedy for one of society's greatest problems. In its philosophy and operation it reflects the altruistic impulses of man toward the betterment of his kind, and cannot fail to strike a responsive cord in

the human heart. To be able to contribute in some measure to the improvement of such a work is indeed a privilege, for which the Commission assures your Excellency of its grateful thanks.

Respectfully submitted,

JAMES GAY GORDON, JR.,
Chairman.

LYNN G. ADAMS

H. EDGAR BARNES

LOUIS CAPLAN

GEORGE I. FISHER

P. W. FOOTE

WALTER H. HITCHLER

JOHN H. McCANN

WILLIAM E. MIKELL

CHESTER H. RHODES

THOMAS R. WICKERSHAM

Appendix.

Containing Drafts of Legislation Recommended by the Commission for Enactment

AN ACT

To create a uniform and exclusive system for the administration of probation and parole in this Commonwealth; establishing the "Pennsylvania Board of Probation and Parole"; conferring and defining its jurisdiction, duties, powers and functions; providing for the method of appointment of its members; regulating the appointment, removal and discharge of its officers, clerks and employees; dividing the Commonwealth into administrative districts for purposes of probation and parole; fixing the salaries of members of the Board and of certain other officers and employees thereof; making violations of certain provisions of this Act misdemeanors and providing penalties therefor; and for other cognate purposes.

SECTION 1: Be it enacted, etc., That the value of probation and parole as a disciplinary and corrective influence and process is hereby recognized, and it is declared to be the public policy of this Commonwealth that persons subject or sentenced to imprisonment for crime shall, on release therefrom, be subjected to a period of probation or parole during which their rehabilitation, adjustment and restoration to social and economic life and activities shall be aided and facilitated by guidance and supervision under a competent and efficient probation and parole administration, and to that end it is the intent of this Act to create a uniform and exclusive system for the administration of probation and parole in this Commonwealth.

SECTION 2: There shall be and there is hereby established a Board for the administration of the probation and parole laws of this Commonwealth, which shall be known as the "Pennsylvania Board of Probation and Parole", and which is hereinafter referred to as the "Board." Said Board shall consist of five members who shall be appointed by the Superior Court, and each of whom shall hold office for a term of four years or until his successor shall have

been duly appointed and qualified; provided, however, that in making the first appointments to said Board the Superior Court shall appoint two members for terms of three years each, and three members for terms of four years each. Vacancies occurring in an office of member of the Board by expiration of term, death, resignation, removal, or for any other reason, shall be filled by the Superior Court for a full term of four years; provided, however, that in filling vacancies on said Board the Superior Court may, by appropriate order, increase the term of the person or persons about to be appointed for an additional period of one year if the appointment of such person or persons for four years will result in the terms of more than three of the members of the Board expiring in the same calendar year.

SECTION 3: The Superior Court shall, from time to time as the occasion may arise, appoint one of the members of the Board to be its chairman, who shall preside at all meetings of the Board and perform all the duties and functions of chairman thereof. The Board may designate one of its members to act as chairman during the absence or incapacity of the chairman, and, when so acting, the member so designated shall have and perform all the powers and duties of chairman of said Board, but the person so designated shall not receive any additional compensation for so acting.

SECTION 4: A majority of the Board shall constitute a quorum for transacting business, and, except as hereinafter otherwise provided, a majority vote of those present at any meeting shall be sufficient for any official action taken by the Board. No person shall be paroled, discharged from parole, or the parole of any person revoked, except by a majority of the entire membership of the Board.

SECTION 5: The Chairman of the Board shall receive a salary of \$10,500.00 per annum, and each of the other members of the Board shall receive a salary of \$10,000.00 per annum.

SECTION 6: The members of the Board shall not hold any other public office or employment nor engage in any business, profession or employment during their terms of service as members thereof and shall hold their offices during the terms for which they shall have been appointed if

they shall so long behave themselves well. A member of the Board may be removed by the Superior Court for cause. Before removing any member of the Board, the Superior Court shall furnish to such member a statement in writing of the reasons for his proposed removal and shall give him a reasonable opportunity to reply thereto, and upon the removal or discharge from office of any member of the Board, the Superior Court shall publicly state and file of record with its prothonotary the reasons for such removal or discharge.

SECTION 7: As soon as may be convenient after their appointment the members of the Board of Probation and Parole shall meet and organize. They shall appoint a Secretary who shall not be a member of the Board who shall hold office at their pleasure, who shall have such powers and perform such duties not inconsistent with any law of this Commonwealth as the Board shall prescribe, and who shall receive such compensation as the Board shall determine subject to the approval of the Superior Court. In the absence or incapacity of the Secretary to act, the Board may designate such other person as it may choose to perform temporarily the duties of Secretary.

SECTION 8: The Board shall adopt an official seal by which its acts and proceedings shall be authenticated, and of which the Courts shall take judicial notice. The certificate of the Chairman of the Board, under the seal of the Board and attested by the Secretary, shall be accepted in evidence in any judicial proceeding in any Court of this Commonwealth as adequate and sufficient proof of the acts and proceedings of the Board therein certified to.

SECTION 9: There shall be a General Director of Probation and Parole, who shall be appointed by and hold office during the pleasure of the Board. The General Director of Probation and Parole shall receive a salary of \$7500.00 per annum, together with such necessary expenses actually incurred by him in the discharge of his duties, and as may be authorized and approved by the Board. The said General Director of Probation and Parole shall, subject to the direction and approval of the Board, have supervision and control of all district probation and parole offices, supervisors and agents, and generally be the executive head and

director of the administration of parole and probation in this Commonwealth.

SECTION 10: The principal office of the Board and of the General Director of Probation and Parole shall be in Harrisburg, and the Board shall appoint and employ therein such number and character of officers, agents, clerks, stenographers and employees as may be necessary to carry out the purposes of this Act. The salaries of persons so appointed and employed by the Board shall be fixed by the Board subject to the approval of the Superior Court. The Board shall divide the Commonwealth for administrative purposes into a suitable number of districts not to exceed fifteen, in each of which there shall be a district office which shall have immediate charge of the supervision of cases of probation and parole arising in the Courts of the judicial districts embraced within its territorial limits, but as occasion may require the supervision of particular probationers or parolees may be transferred by the Board to other appropriate parole and probation districts.

SECTION 11: Each district probation and parole office shall be in charge of a district supervisor, who shall be appointed by the Board as hereinafter provided, and who shall receive such annual salary not exceeding \$5000.00 as the Board shall determine subject to the approval of the Superior Court. Said district supervisor shall be the executive head of the district office to which he shall be appointed and shall have the control, management and direction of all the employees of the Board assigned to said district.

SECTION 12: The Board shall appoint in the various district offices a sufficient number of probation and parole officers, clerks, stenographers and other agents and employees, to fully and efficiently administer the probation and parole laws of this Commonwealth; but no employee of the Board, other than its Secretary and its General Director of Probation and Parole, shall be appointed by the Board except in the manner hereinafter provided. The salaries of such appointees as aforesaid shall be fixed by the Board subject to the approval of the Superior Court. It shall be the duty of the Board, from time to time, by appropriate rule or regulation, to prescribe the qualifications to be possessed by its appointees. Said qualifications shall be such

as will best promote the efficient operation of probation and parole.

SECTION 13: The Board shall, from time to time, as may be necessary, prepare and conduct, or cause to be prepared and conducted, free competitive examinations for all positions to which it shall have power to appoint, except that of the General Director of Probation and Parole and of the Secretary of the Board. Said examinations shall be practical in character, and, so far as may be possible, shall fairly test the relative capacity and fitness of the applicants to discharge the duties of the service into which they seek to be appointed, but no applicant for appointment shall be excluded from the examinations conducted by the Board for political, racial or religious reasons or because of a lack of previous scholastic education or special training or experience; provided, however, that in grading applicants the Board may give fair credit for previous education, training and experience. Written examinations shall be so conducted that the identity of those taking the same shall be unknown to the examiners.

SECTION 14: From the examinations conducted as hereinbefore provided, the Board shall compile lists of eligibles from which it shall make its appointments to the positions for which the examinations shall have been held. A list shall not remain in existence for a longer period than two years, and at the expiration of said period, or the exhaustion of a list, a new list shall be compiled by the Board before another appointment may be made to a position for which the expired or exhausted list was applicable; provided, however, that in an emergency the Board may provisionally appoint to a position for which no eligible list is available, but no such provisional appointment shall be for a longer period than three months, and successive provisional appointments shall not be made by the Board. The persons taking an examination shall take rank upon the eligible list compiled therefrom in the order of their relative fitness as determined by the examination without reference to priority of time of examination. In making appointments from an eligible list compiled in the manner aforesaid, the Board shall select for its first appointment from the names of the three persons standing highest on said list. Thereafter, as each appointment is made by the Board, the next selection shall be made in the same manner from the three

names then standing highest on said list, and so on, until the expiration of said list or the exhaustion thereof. If any name has been three times rejected by the Board, the said name shall be stricken from the eligible list and shall not thereafter be considered by the Board in making an appointment therefrom. All appointments made from an eligible list shall be for a probationary period of not more than six months, and during such probationary period, the appointee may be dismissed at the pleasure of the Board.

At its inception the Board may, in its discretion, provisionally appoint and employ its officers, clerks and employees from among the officers, clerks and employees of the various probation and parole departments operating in this Commonwealth at the effective date of this Act without requiring such persons initially to submit themselves to and to pass competitive examinations as herein provided for, but no such employment shall continue after the preparation and establishment of an appropriate eligible list for the position occupied by such appointee, and in no event for a longer period than two years.

SECTION 15: No employee of the Board, except the Secretary and General Director of Probation and Parole, shall be removed, discharged or reduced in pay or position, except for cause, and only after giving him the reasons therefor in writing and affording him an opportunity to be heard in answer thereto; provided, however, that an employee may be suspended without pay and without hearing, for a period not exceeding thirty days, but the reason or reasons for such suspension shall be given to the employee by the Board in writing, and provided further that successive suspensions of the same employee, under the power hereby granted, shall not be made.

SECTION 16: No member of the Board, or officer, clerk or employee thereof, or any person officially connected therewith, shall take any active part in politics, or be a member of or delegate or alternate to, any political convention, or be present at such convention, except in the performance of his official duties hereunder. No member of the Board, officer, clerk or employee thereof, or any person officially connected therewith, shall serve as a member of, or attend the meetings of, any committee of any political party, or take any part in political management or political campaigns, or use his office to influence political movements, or to influence the action of any other officer, clerk or em-

ployee of said Board. No member of the Board, officer, clerk or employee thereof, or any person officially connected therewith, shall, in any way or manner, interfere with or participate in the conduct of any election or the preparation therefor at the polling place, or with the election officers while counting the votes or returning the ballot boxes, books, papers, election paraphernalia and machinery to the place provided by law, or be within any polling place save only for the purpose of voting as speedily as it reasonably can be done, or be otherwise within fifty feet thereof, except for purposes of ordinary travel or residence, during the period of time beginning with one hour preceding the opening of the polls for holding the election and ending with the time when the election officers shall have finished counting the votes and have left the polling place. No member of the Board, officer, clerk or employee thereof, or any person officially connected therewith, shall, directly or indirectly, make or give, demand, solicit, or be in any manner concerned in making, giving, demanding, soliciting or receiving any assessments, subscriptions or contributions, whether voluntary or involuntary, to any political party or for any political purpose whatsoever. Any person or persons who shall violate any of the provisions of this section shall be guilty of a misdemeanor, and, upon conviction thereof, be punished by a fine not exceeding five hundred dollars and imprisonment not exceeding one year, either or both in the discretion of the Court, and, in addition thereto, shall forfeit his office or employment as the case may be, and shall not thereafter be appointed or employed by the Board in any position or capacity whatsoever. It shall be the duty of the Board to dismiss from his office or employment any officer, clerk or employee thereof who shall violate the same.

SECTION 17: The Board shall have exclusive power to parole and reparole, commit and recommit for violations of parole, and to discharge from parole all persons heretofore or hereafter sentenced by any Court in this Commonwealth to imprisonment in any prison or penal institution thereof, whether the same be a State or County penitentiary, prison or penal institution as hereinafter provided, and shall also be charged with the exclusive duty of supervising and regulating the conduct of persons heretofore or hereafter placed on probation by any Court in this Commonwealth; provided, however, that the powers and duties herein conferred shall not extend to persons sentenced or placed upon probation

for a period of less than one year, and nothing herein contained shall prevent any Court of this Commonwealth from paroling any person sentenced by it for a period of less than one year, and provided further that the period of one year herein referred to shall mean the entire continuous term of probation or sentence to which a person is subjected, whether the same be by one or more sentences either to simple imprisonment, or to an indeterminate imprisonment at hard labor, as now or hereafter authorized by law to be imposed for criminal offenses.

SECTION 18: It shall be the duty of the Court sentencing any person for a term as to which power to parole is herein given to the Board to transmit to the said Board within thirty days after the imposition of such sentence, a full and complete copy of the record upon which sentence was imposed, including any notes of testimony taken at the trial or hearing of a plea of guilty and upon which sentence was imposed as aforesaid. A judge in his discretion may make at any time any recommendation he may desire to the Board respecting the person so sentenced, and the term of imprisonment said judge believes such person should be required to serve before a parole is granted to him, but a recommendation made by a judge as aforesaid respecting the parole or terms of parole of such person, shall be advisory only, and no order in respect thereto made or attempted to be made as a part of a sentence shall be binding upon the Board in performing the duties and functions herein conferred upon it.

SECTION 19: It shall be the duty of the Board of Probation and Parole, upon the commitment to prison of any person whom said Board is herein given the power to parole, to investigate and inform itself respecting the circumstances of the offense for which said person shall have been sentenced, and, in addition thereto, it shall procure information, as full and complete as may be obtainable, with regard to the character, mental characteristics, habits, antecedents, connections and environment of such person. The Board shall further procure the stenographic record, if any, of the trial, conviction and sentence, together with such additional information regarding the crime for which sentence was imposed as may be available. The Board shall further cause the conduct of the person while in prison, and his physical, mental and behavior condition and history, and his complete criminal record as far as the same may be known, to be

investigated and reported. All public officials having possession of such records or information are hereby required and directed to furnish the same to the Board upon its request and without charge therefor. Said investigation shall be made by the Board, so far as may be practicable, while the case is recent, and in granting paroles the Board shall consider the nature and character of the offense committed and any recommendation made by the trial judge as well as the general character and history of the prisoner.

SECTION 20: It shall be the duty of all prison officials, at all reasonable times, to grant access to any prisoner whom the Board has power to parole to the members of said Board, or its properly accredited representatives, and all prison officials shall at all reasonable times, provide for the Board or its properly accredited representatives facilities for communicating with and observing such prisoner while imprisoned, and shall furnish to the Board, from time to time, such reports concerning the conduct of prisoners in their custody as the Board shall by general rule or special order, require, together with any other facts deemed pertinent in aiding the Board to determine whether such prisoners shall be paroled.

SECTION 21: The Board is hereby authorized to release on parole any convict confined in any penal institution of this Commonwealth as to whom power to parole is herein granted to the said Board, except convicts condemned to death or serving life imprisonment, whenever, in its opinion, the best interests of the convict justify or require his being paroled, and it does not appear that the interests of the Commonwealth will be injured thereby. If at the time a person is paroled, he has been imprisoned for a period in excess of one-half of the maximum term of imprisonment to which he shall have been sentenced, the period of parole may be extended by the Board beyond such maximum term, but in no case in excess of the maximum sentence provided by law for the offense for which he shall have been sentenced. The power to parole herein granted to the Board of Probation and Parole may be exercised in its discretion at any time after sentence is imposed regardless of any minimum term of imprisonment fixed by the Court in its sentence. Said Board shall have the power, during the period for which a person shall have been sentenced, to recommit one paroled for violation of the terms and conditions of his parole, and, from time to time, to reparole

and recommit in the same manner and with the same procedure as in the case of an original parole or recommitment, if, in the judgment of the said Board, there is a reasonable probability that the convict will be benefitted by again according him liberty and it does not appear that the interests of the Commonwealth will be injured thereby.

SECTION 22: The Board shall have the power to grant paroles of its own motion whenever in its judgment the interests of justice require the granting of the same. In addition thereto, the Board shall have the power, and it shall be its duty, to consider applications for parole by a prisoner, or by his attorney, relatives or friends, or by any person properly interested in the matter. Hearings of applications shall be held by the Board whenever in its judgment hearings are necessary. Reasonable rules and regulations shall be adopted by the Board for the presentation and hearing of applications for parole and no application for parole shall be granted without a public hearing of the same, but the Board may grant paroles of its own motion without public hearing; provided, however, that whenever any prisoner is paroled by the Board, whether of its own motion or after hearing of an application therefor, a brief statement of the reasons for the Board's action shall be filed of record in the offices of the Board and shall be, at all reasonable times, open to public inspection. It shall not be necessary in granting paroles for any member of the Board to personally see and interview the prisoner, but an application for parole shall not be dismissed unless one member of the Board shall have personally seen and heard him in regard thereto within one year prior to the dismissal thereof. Applications shall be disposed of by the Board within six months of the filing thereof.

In granting and revoking paroles and in discharging from parole, the members of the Board acting thereon shall not be required to personally hear or see all the witnesses and evidence submitted to them for their action, but they may act on report submitted to them by their agents and employees together with any pertinent and adequate information furnished to them by fellow members of the Board, or by others.

SECTION 23: The Board shall have the power, and it shall be its duty, to make general rules for the conduct and supervision of persons heretofore or hereafter placed upon parole, or upon probation for one year or more by any

Court in this Commonwealth. In addition to the power to make general rules and regulations hereby granted, the Board may, in particular cases, as it deems necessary to effectuate the purpose of probation and parole, prescribe special regulations for particular probationers or parolees.

SECTION 24: All general rules and regulations of the Board shall be submitted to the Superior Court for its approval, and when so approved by the Superior Court shall become the official rules and regulations of the Board. Written copies of the general rules and regulations governing the conduct of probationers and parolees shall be furnished to each probationer and parolee, together with a statement of any special regulations prescribed by the Board in his particular case.

SECTION 25: The Board shall have power to discharge from parole at any time prior to the expiration of his parole period any parolee whom the Board is of opinion will be benefitted by such discharge, if the interests of the Commonwealth will not be injured thereby.

SECTION 26: Whenever any person shall be found guilty of any criminal offense, except murder in the first degree, in any Court of this Commonwealth, the Court shall have the power, in its discretion, if it believes the character of the person and the circumstances of the case to be such that he is not likely again to engage in a course of criminal conduct and that the public good does not demand or require the imposition of a sentence to imprisonment instead of imposing such sentence to place the person on probation for such definite period as the Court shall direct, not exceeding the maximum period of imprisonment allowed by law for the offense for which such sentence might be imposed.

SECTION 27: Paroles from imprisonment for less than one year shall be granted by the sentencing court and shall, together with probations for like periods, be without supervision unless the Court shall by special order direct supervision of a particular probationer or parolee, in which case his probation or parole, as the case may be, shall be supervised by the Board herein established.

SECTION 28: Whenever in the opinion of the Board any person placed on probation by any Court of this Commonwealth for a period of one year or more, shall have committed such a violation of his probation that the same is liable to, or should be revoked, the said Board shall cause

such probationer to be brought for hearing before the Court by which the sentence to probation was imposed. If after hearing the Court determines that the probationer has violated any condition of his probation it may pronounce upon him such sentence as may be prescribed by law to begin at such time as the Court may direct. In all cases of violation of probation the alleged violator shall be subject to arrest as in the case of an escaped convict.

SECTION 29: Probation and parole officers appointed by the Board are hereby declared to be peace officers and are hereby given police power and authority throughout the Commonwealth to arrest without warrant, writ, rule or process, any parolee or probationer for failing to report as required by the terms of his probation or parole, or for any other violation thereof.

SECTION 30: The Board shall appoint and employ a sufficient number of women as probation and parole officers and supervisors to act as such for the women over whom it shall have power and jurisdiction, and no person of one sex shall be paroled in charge of a probation or parole officer of the opposite sex.

SECTION 31: In fixing compensation for its officers, clerks and employees under the provisions of this Act, the Board shall have regard to the kind, grade or class of service to be rendered, and whenever any standard compensation has been fixed by the executive Board of the Commonwealth for any kind, grade or class of service or employment, the compensation of all persons appointed or employed by the Board in the same kind, grade or class shall be fixed by it in accordance with such standard.

SECTION 32: Wherever in this Act the masculine is used, it shall include the feminine.

SECTION 33: Anything herein contained to the contrary notwithstanding this Act shall not apply to persons sentenced to imprisonment in the State Industrial Home for Women at Muncy, the Pennsylvania Industrial School, houses of refuge for boys or girls, institutions for the discipline or correction of juveniles under the age of sixteen years or persons imprisoned in any county jail, workhouse or other penal or correctional institution under sentence by an alderman, justice of the peace, or magistrate or committed in default of payment of any fine or of bail.

SECTION 34: The provisions of this Act are hereby extended to all persons who, at the effective date hereof, may be on probation or parole, or liable to be placed on probation or parole under existing laws, with the same force and effect as if this Act had been in operation at the time such persons were placed on probation or parole, or became liable to be placed thereon as the case may be.

SECTION 35: The Act of May 1, 1929, P. L. 1182 entitled "An Act providing for the procedure and powers of the State Board of Pardons and Boards of Trustees of Penitentiaries where prisoners released on parole violate the terms of such parole and fixing the penalty for such violation", and the Act of May 1, 1929, P. L. 1184 entitled "AN Act conferring and imposing sentence, powers and duties upon the State Board of Pardons with respect to inmates of state penal and correctional institutions", and the Act of June 19, 1911, P. L. 1055, entitled "An Act authorizing the release on probation of certain convicts, instead of imposing sentences: the appointment of probation and parole officers, and the payment of their salaries and expenses: regulating the manner of sentencing convicts in certain cases, and providing for their release on parole: their conviction of crime during parole, and their rearrest and reconviction for breach of parole: and extending the powers and duties of boards of prison inspectors of penitentiaries," and the Act of June 19, 1911, P. L. 1059, entitled "An Act extending the powers of judges of courts of quarter sessions and of oyer and terminer, in relation to releasing prisoners in jails and workhouses on parole," are hereby repealed. All acts and parts of acts inconsistent with this Act are hereby repealed.

SECTION 36: It shall be the duty of the Superior Court to appoint the members of the Board on or before the first day of October, 1939. The Board as so constituted shall immediately thereafter set up the system herein provided for and make the necessary appointments of its officers, clerks and employees, and this Act shall become effective in all respects on the first day of March, 1940.

AN ACT

Relating to sentences for criminal offenses ; defining the powers of courts in imposing sentences ; regulating the exercise thereof and appeals therefrom ; and for other purposes.

SECTION 1: Be it enacted, etc., That whenever any defendant shall be found guilty of a criminal offense in any Court of this Commonwealth by open confession, by decision of the court, by verdict of a jury, or in any other manner, the Court before which such conviction is had, if it does not defer the imposition of sentence thereon may, in its discretion :

(a) suspend sentence and discharge the defendant from custody ;

(b) place the defendant on probation for such definite period of time as the Court shall determine, not exceeding the maximum allowed by law for the offense for which sentence is imposed ;

(c) in addition to imposing any fine or other special penalty authorized by law, sentence the defendant to such imprisonment as now or hereafter may be allowed by law for the offense of which he shall have been found guilty.

If the Court suspends sentence under Clause (a), it may, at any time during the maximum period allowed by law for the offense, cause the defendant to be brought before it for sentence. If the defendant is placed on probation under Clause (b) the Court may, for any violation of his probation, revoke the same and sentence the defendant under Clause (c) hereof. Any person who shall violate the terms of his probation shall be subject to arrest in the same manner as in the case of an escaped convict and the sentence imposed for a violation of probation shall begin at such time as the Court may direct.

SECTION 2: In any case where a fine only is imposed and the defendant might be imprisoned until such fine be paid, the Court may place the defendant on probation and direct as one of the terms thereof that the fine imposed shall be paid in certain instalments at certain times provided, however, that upon payment of the fine judgment shall be satisfied and the probation cease.

SECTION 3: Indeterminate sentences are hereby abolished, and in imposing sentence to imprisonment under Clause (c) of Section 1 of this Act, the Court shall, if the sentence be for less than one year, specify therein the duration thereof, but if the sentence be for a greater period than one year, the Court shall, in all cases, impose the maximum sentence provided by law for the offense or offenses for which the sentence is imposed.

SECTION 4: In sentencing any person to imprisonment under the provisions of this Act, the Court shall designate in its sentence the appropriate Penitentiary, County Prison, workhouse, house of correction or other penal institution in which the imprisonment shall be served as is now provided by law for the offense or offenses for which sentence is imposed. Nothing herein contained shall impair the power of the Department of Welfare to transfer prisoners between institutions conferred by the Act of April 18, 1929, P. L. 542 entitled "An Act empowering the Department of Welfare to transfer male prisoners from unsuitable penal and correctional institutions to other penal and correctional institutions; regulating future commitments by the court of counties having unsuitable institutions and imposing the cost of maintenance and transfer of such prisoners upon the county from which committed."

SECTION 5: Any action taken by the Court under Clauses (a), (b) and (c) of Section 1 of this Act shall be considered a judgment of the Court from which an appeal may be taken in the manner now provided by law for final judgments.

SECTION 6: The Court may, at any time within thirty days after imposing a sentence under the provisions of this Act, reconsider the same and impose such lawful sentence as in its opinion may to right and justice appertain notwithstanding the term in which the reconsidered sentence was imposed shall have passed, but no sentence shall be reconsidered after the expiration of thirty days from the imposition of the first sentence as aforesaid.

SECTION 7: This Act shall not apply to sentences to the State Industrial Home for Women at Muncy, the Pennsylvania Industrial School, houses of refuge for boys or girls, institutions for the discipline and correction of juveniles under the age of sixteen years, or cases involving dependent, delinquent or neglected children.

SECTION 8: The Act of May 11, 1901, P. L. 166, entitled "An Act providing for the commutation of sentences for good behavior of convicts in prisons, penitentiaries, workhouses and county jails of this State and regulations governing the same" is hereby repealed insofar as it relates to persons paroled under the provisions of this Act. All other acts or parts of acts inconsistent with this Act are hereby repealed.

SECTION 9: This Act shall take effect on the first day of March, 1940.

